

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 10-72844

WILLIAM A. JOHNSON, and
JANE R. JOHNSON,

Chapter 13

Judge Thomas J. Tucker

Debtors.

**ORDER STRIKING CERTIFICATION REGARDING
DOMESTIC SUPPORT OBLIGATIONS (DOCKET ## 89, 93)**

On April 10, 2014, and again on April 21, 2014, Debtor Jane R. Johnson filed a document entitled "Certification Regarding Domestic Support Obligations" (Docket ## 89, 93, the "Certification") on behalf of her deceased husband and joint Debtor William A. Johnson. The Court must strike the Certifications, without prejudice, because they were not signed by the deceased Debtor during his lifetime or signed by the personal representative of his estate. The Debtor died before the Certification was filed, so Debtor's wife had no authority to sign and file the Certification on behalf of the Debtor William Johnson, under a power of attorney.¹

Only a personal representative duly appointed by the probate court under the laws of the State of Michigan may sign and file a certification of domestic support obligations in the case of a deceased debtor. *Cf.* Mich. Comp. Laws Ann. § 700.3103 (stating, in relevant part, that "[e]xcept as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a decedent's personal representative, a person must be appointed by the register or by court order, must qualify, and must be issued letters"); Mich. Comp. Laws Ann. § 700.3703(3) (stating that "[e]xcept as to a proceeding that does not survive the decedent's death, a personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of another jurisdiction as the decedent had immediately prior to death"); *In re Hamilton*, 274 B.R. 266, 267 (W.D. Tex. 2001) (citing *In re Lucio*, 251 B.R. 705, 708-09 (Bankr. W.D. Tex. 2000)) ("[W]hen a debtor dies, the only person who can then appear on the debtor's behalf is the person so named as the official representative of the probate estate of the debtor.")

Accordingly,

¹ Debtor Jane R. Johnson's authority to sign documents for Debtor William A. Johnson, based on the power of attorney, ended when William A. Johnson died. Not only is this the law, but the power of attorney document explicitly says this too. The power of attorney document attached as an exhibit to the Certification at Docket # 93 states, in relevant part, in Article VI.A: "Upon my death, this power of attorney shall terminate upon actual knowledge or receipt of written notice thereof of my Agent [Jane Rose Johnson]."

IT IS ORDERED that the Certifications (Docket ## 89, 93) are stricken, without prejudice to the right of a duly appointed personal representative of the deceased Debtor to file such a certification.

Signed on May 09, 2014

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge